

1 IN THE UNITED STATES DISTRICT COURT
2

3 For the Southern District of California
4

5 SECURITIES AND EXCHANGE)
6 COMMISSION)
7 Plaintiff,)
8 v.) Case No. 02cv84 DMS (RBB)
9 JAMES E. FRANKLIN,)
10 Defendant.)
11

12 **DECLARATION OF JAMES E. FRANKLIN**
13
14 **IN SUPPORT OF MOTION FOR RELIEF FROM FINAL JUDGMENT**

15 I, James E. Franklin, declare under penalty of perjury under the laws of the United States that the
16 following is true and correct:
17

18 1. I am the Petitioner in the above-captioned matter. This Declaration is submitted in support
19 of my Motion for Relief from Final Judgment under Federal Rule of Civil Procedure
20 60(b)(6).
21 2. On November 27, 1996, I first learned of Sam Wolanyk's intent to launch a stock
22 newsletter, which later became RedHotStocks.com, launched in January 1998. At no time
23 prior to this disclosure did I participate in any scheme to synchronize promotional activity
24 with stock issuance or resale.
25
26

3. In 2024, I undertook a full review of 26 banker's boxes of documents scanned in 2005 but
4 previously unreadable due to my worsening visual impairment (diagnosed in 2022). With
5 the help of AI-assisted search tools, I was finally able to conduct a forensic review of
6 investment records, stock transfers, and filings.
7. My syndicate of companies—including IPO Consultants, Crest, and Vector Keel—
8 reinvested more than **\$2.59 million** of total proceeds back into client companies, as detailed
9 in Exhibits 371, 378, and 572. Reinvestments included substantial funds to Amalgamated
10 Explorations (AXPL), NetUSA, MSP Technologies, and the Internet Stock Exchange,
11 among others.
12. I have never reoffended. The public record reflects no new violations, complaints, or
13 sanctions since the judgment entered in 2005 and the penny stock bar in 2006.
14. As part of my career, I have contributed to innovative public-benefit technologies,
15 including:
 - 16. ○ **WaterRx**: a low-power oxidizer for water purification in disaster relief zones;
 - 17. ○ **Remote NMR sensing**: to map aquifers and subsurface hydrogen formations;
 - 18. ○ **Modular disaster relief housing**.
 - 19. ○ **“Magic Mud”**: a drilling compound used in extreme wellbores.
20. 7. My interest in oil exploration began early. At 14, I was mentored by Christian Murer and
21 Gilbert Fowler—Independent producers and founders of Amalgamated Explorations. I
22 worked as a landman and learned from their combined 90+ years of industry experience.
23. 8. One day, Mr. Fowler shared a story that left a lifelong impression. He described the
24 discovery of the Schwartzwalder uranium mine near Golden, Colorado by a janitor who
25 had collected mineral samples while hiking. A visiting professor recognized radioactive
26 pitchblende in one sample, and months later, that janitor traced the rock to what became

1 one of the richest uranium deposits in the United States.
2

3 9. Mr. Fowler told me, “**James, if you could only see ten feet below the ground, just**
4 **imagine the wealth that lies beneath your feet.**” That phrase inspired my decades-long
5 search for a breakthrough in subsurface detection—eventually realized through AXPL’s
6 telluric-based oil exploration technology.
7

8 8. I passed the Series 7 exam at age 17, becoming one of the youngest licensed brokers in
9 the country. I worked for several years without a single client complaint. I later became
10 active in the National Association of Investment Bankers, attending breakout sessions
11 where 10–15 emerging growth companies would present each cycle. It gave me a deep
12 appreciation for the risk and ingenuity that fuels American entrepreneurship.
13

14 9. The SEC’s case did not uncover any net gain. In fact, I and the syndicate may have
15 incurred **net losses** after deducting verified reinvestments and a \$669,000 trading loss in
16 Casmyn Minerals (Exhibit 203). These are not the footprints of a fraud.
17

18 10. Even the SEC, at trial, described me as ‘like Casper’—they could find no hidden money.
19 And that’s because there was none. I never profited. I didn’t scheme or hide. I invested
20 and lost. And I have paid dearly
21

22 11. My life has been defined by risk-taking, reinvestment, and service. In Japanese culture,
23 the concept of **hanshi** requires one to confront one’s past with humility, and **gaman**
24 teaches us to endure hardship with dignity. For two decades, I have lived with this
25 judgment, accepting its weight while continuing to build.
26

27 12. I respectfully ask this Court to consider one final dimension of fairness: constitutional
28 proportionality. I have lived under a permanent injunction and penny stock bar for
nearly two decades. I was never criminally charged. The SEC itself admitted it could
28

1 find no evidence that I hid money or profited—calling me “like Casper.” And that’s
2 because there was nothing to find. I never made a profit. I invested, and ultimately lost,
3 using credit lines from banks that collapsed under the weight of the government’s
4 prosecution.

5 13. The penalty imposed was not remedial—it was ruinous. I have been barred from my
6 profession, ostracized from financial systems, and flagged in databases that effectively
7 prohibit employment and investment. I have not reoffended. I have innovated in fields
8 of public benefit, including water purification, subsurface mapping, and clean energy.

9 14. In Japanese culture, *gaman* is the art of enduring hardship with dignity. For 20 years, I
10 have borne this judgment without complaint or misconduct. But now, with evidence
11 clarified, the law changed, and my conduct unblemished, I respectfully ask the Court to
12 recognize that this penalty no longer meets constitutional or equitable standards.

13 15. Despite never being criminally charged or found to have caused loss, I have endured
14 what amounts to a permanent professional death sentence. I cannot open a bank account
15 without scrutiny. I have been flagged in regulatory databases for two decades. The SEC
16 could find no hidden assets—because there were none. I never profited.

17 16. I respectfully ask the Court to consider that under *Liu* and *Austin*, civil sanctions that
18 destroy a person’s ability to function economically and socially, without proof of fraud
19 or gain, are now subject to Eighth Amendment limits. The sanction is no longer
20 equitable, and it is not constitutional.

Final Reflection

“Even civil penalties can violate the Eighth Amendment if they act as punishment, not regulation.” — Austin, 509 U.S. at 602

Executed this 10th day of June, 2025

James E Franklin

James E. Franklin

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